

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JULIO CESAR NAVAS,

Plaintiff,

v.

JAMES BACA, et al.,

Defendants.

Case No. 3:10-cv-00647-RCJ-WGC

ORDER

This action is a counseled petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. On July 9, 2015, the Ninth Circuit Court of Appeals vacated this court's order dismissing the petition without prejudice and denying petitioner Navas' motion for stay (ECF No. 46). The court of appeals remanded the matter to this court. *Id.* The mandate was ordered spread upon the records of this court on August 4, 2015 (ECF No. 48).

Navas is represented by Federal Public Defender (FPD) Ryan Norwood. Nevertheless, on September 15, 2015, petitioner filed a *pro se* motion to withdraw attorney (ECF No. 49). Navas also filed a *pro se* motion for appointment of counsel on December 15, 2015 (ECF No. 57). As petitioner was represented by counsel at the time he filed each motion, they are not properly before the court and shall be stricken.

On November 5, 2015, the FPD filed a motion to withdraw as petitioner's attorney (ECF No. 51). Respondents filed their non-opposition (ECF No. 54). Having considered the motion to withdraw as well as the response to the show-cause order, the

FPD's motion to withdraw is granted. Further, the court's Criminal Justice Act designee has located counsel who is willing to be appointed to represent petitioner herein:

Mark D. Eibert
P. O. Box 1126
Half Moon Bay, CA 94019-1126
Telephone (650) 712-8380
Fax (650) 712-8377
E-mail: markeibert@comcast.net.

The court now sets a schedule for further proceedings in this action.

IT IS THEREFORE ORDERED that the Federal Public Defender's motion to withdraw as attorney (ECF No. 51) is **GRANTED**.

IT IS FURTHER ORDERED that Mark D. Eibert is appointed to represent petitioner Navas. Mr. Eibert is a Criminal Justice Act (CJA) panel attorney for the United States District Court, District of Nevada. Mr. Eibert shall represent petitioner in all future proceedings in this court relating to this matter (including subsequent actions) and appeals therefrom, pursuant to 18. U.S.C. Section 3006A (a)(2)(B), until allowed to withdraw.

IT IS FURTHER ORDERED that CJA counsel for petitioner shall meet with petitioner as soon as reasonably possible, to: (a) review the procedures applicable in cases under 28 U.S.C. § 2254; (b) discuss and explore with petitioner, as fully as possible, the potential grounds for habeas corpus relief in petitioner's case; and (c) advise petitioner that all possible grounds for habeas corpus relief must be raised at this time in this action and that the failure to do so will likely result in any omitted grounds being barred from future review.

IT IS FURTHER ORDERED that petitioner, through counsel, shall have **ninety (90) days** from the date of this order to FILE AND SERVE on respondents a second amended petition for writ of habeas corpus, if any.

IT IS FURTHER ORDERED that respondents shall have **forty-five (45) days** after service of an amended petition within which to answer, or otherwise respond to,

the second amended petition. If petitioner does not file a second amended petition, respondents shall have forty-five (45) days from the date on which the second amended petition is due within which to answer, or otherwise respond to, petitioner's first amended petition (ECF No. 16).

IT IS FURTHER ORDERED that, if and when respondents file an answer or other responsive pleading, petitioner shall have **thirty (30) days** after service of the answer or responsive pleading to file and serve his response.

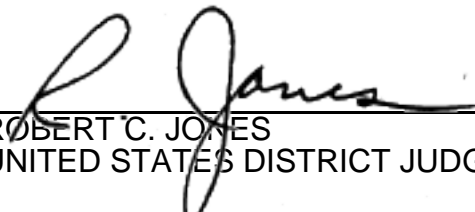
IT IS FURTHER ORDERED that any state court record exhibits filed by the parties herein shall be filed with an index of exhibits identifying the exhibits by number or letter. The CM/ECF attachments that are filed shall further be identified by the number or numbers (or letter or letters) of the exhibits in the attachment.

IT IS FURTHER ORDERED that the parties **SHALL SEND** courtesy copies of all exhibits to the Reno Division of this court. **While the Local Rules provide that parties should send paper courtesy copies of filings over fifty pages, in this instance, courtesy copies may be in paper form or as PDF documents saved to a CD—so long as each PDF is clearly identified by exhibit number.** Courtesy copies shall be mailed to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, and directed to the attention of "Staff Attorney" on the outside of the mailing address label. Additionally, in the future, all parties shall provide courtesy copies of any additional exhibits submitted to the court in this case, in the manner described above.

IT IS FURTHER ORDERED respondents' motion to strike (ECF No. 58) is **GRANTED.**

IT IS FURTHER ORDERED that petitioner's motion for withdrawal of attorney of record (ECF No. 49) and motion for appointment of counsel (ECF No. 57) are both **STRICKEN.**

DATED this 25th day of January, 2016.


ROBERT C. JONES
UNITED STATES DISTRICT JUDGE